

Assembly Bill No. 943

Passed the Assembly August 31, 2000

Chief Clerk of the Assembly

Passed the Senate August 24, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 8855 and 53646 of the Government Code, relating to the California Debt and Investment Advisory Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 943, Dutra. California Debt and Investment Advisory Commission.

(1) Existing law establishes a 9-member California Debt and Investment Advisory Commission and prescribes the duties of that commission, including the requirement that the commission collect, maintain, and provide comprehensive information on all state and all local debt authorization, sold and outstanding. It requires the commission to prepare an annual report compiling and detailing the total amount of outstanding state and local public debt and examining recent trends in the composition of that debt.

Existing law requires the treasurer or chief fiscal officer of a local agency to render annually a statement of investment policy to the legislative body of the local agency, as well as to any oversight committee. This officer is also required to render quarterly reports regarding the financial assets of the local agency to the legislative body, the chief executive officer, and the internal auditor.

This bill would additionally require each city, county, or city and county to submit copies of its 2nd and 4th quarterly reports, as well as the statement of investment policy, to the California Debt and Investment Advisory Commission. The bill would exempt a city from the reporting requirement if it has maintained 100% of its investment portfolio in the county treasury, the Local Agency Investment Fund, other specified investments, or a combination thereof, and would exempt a county or city and county that maintained 100% of its investment portfolio in the Local Agency Investment Fund, other specified investments, or a combination thereof. Any city, county, or city and county not required to submit a report



would be required to file with the commission a certification that it is not subject to the reporting requirement. These reporting requirements would impose new duties on local agencies and therefore would impose a state-mandated local program.

This bill would require the commission to collect, maintain, and provide information on local agency investments of public funds and to receive local government investor portfolio information. It would also require the commission to report to the Legislature by May 1, 2006, its activities since the inception of the local agency investment reporting program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, selected as follows:

- (1) The Treasurer, or his or her designee.
- (2) The Governor or the Director of Finance.
- (3) The Controller, or his or her designee.
- (4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of



municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

(2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairperson and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars (\$50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars (\$300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.



(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization, sold and outstanding, and serve as a statistical clearinghouse for all state and local debt issues. This information shall be readily available upon request by any public official or any member of the public.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments, and undertake other activities conducive to the disclosure of investment practices and strategies for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(f) The city, county, or city and county investor of any public funds, no later than 60 days after the close of the second and fourth quarters of each calendar year, shall provide the quarterly reports required pursuant to Section 53646 and, no later than 60 days after the close of the quarter of each calendar year and 60 days after the subsequent amendment thereto, provide the statement of investment policy required pursuant to Section 53646, to the commission by mail, postage prepaid, or by any other method approved by the commission. The commission shall collect these reports to further its educational responsibilities as described under

subdivision (e). Nothing in this section shall be construed to create additional oversight responsibility for the commission or any of its members. Sole responsibility for control, oversight, and accountability of local investment decisions shall remain with local officials. The commission shall not be considered to have any fiduciary duty with respect to any local agency income report received under this subdivision. In addition, the commission shall not have any legal liability with respect to these investments.

(g) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(h) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans.

(i) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(j) The issuer of any new debt issue of state or local government, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, shall submit a report of final sale to the commission by mail, postage prepaid, or by any other method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. The commission may require information to be submitted in the report of final sale that it considers appropriate.

(k) The commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(l) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority



of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(m) All administrative and clerical assistance required by the commission shall be furnished by the office of the Treasurer.

(n) The commission, no later than May 1, 2006, shall report to the Legislature describing its activities since the inception of the local agency investment reporting program regarding the collection and maintenance of information on local agency investment practices and how the commission uses that information to fulfill its statutory goals.

SEC. 2. Section 53646 of the Government Code is amended to read:

53646. (a) (1) In the case of county government, the treasurer shall annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency shall annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b) (1) The treasurer or chief fiscal officer shall render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties,

including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.



(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school district or county office of education in individual accounts that are less than twenty-five thousand dollars (\$25,000).

(g) Except as provided in subdivisions (h) and (i), each city, county, or city and county shall submit copies of its second and fourth quarter reports to the California Debt and Investment Advisory Commission within 60 days after the close of the second and fourth quarters of each calendar year. Any city, county, or city and county not required to submit a report pursuant to subdivision (h) or (i) shall file with the commission a certification within 60 days of the end of the second and fourth quarters of the calendar year stating the distribution and amount of its investment portfolio and that it is therefore not subject to this reporting requirement. This subdivision shall become inoperative on January 1, 2007.

(h) A city shall not be required to submit a quarterly report to the commission if, during the entire reporting period, the city has maintained 100 percent of its investment portfolio in (1) the treasury of the county in which it is located for investment by the county treasurer pursuant to Section 53684, (2) the Local Agency Investment Fund created by Section 16429.1, (3) National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, or (4) in any combination of these.

(i) A county or city and county shall not be required to submit a quarterly report to the commission if, during the entire reporting period, the county has maintained 100 percent of its investment portfolio in (1) the Local Agency Investment Fund created by Section 16429.1, (2) National Credit Union Share Insurance Fund-insured

accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, or (3) in any combination of these.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 2000

Governor

